

REMARKS

In the Board Decision mailed on **29 January 2010** the Board of Appeal affirms the Examiner's decision rejecting claims 1, 16 and 29 for non-statutory double patenting over both of Kaashoek and Poletto. The Board of Appeal does not sustain the Examiner's obviousness rejection with respect to all pending claims on appeal. Therefore, the Examiner's decision rejecting claims 1-39 under 35 U.S.C. § 103 as obvious is reversed.

Double Patenting Rejection

Claims 1, 16 and 29 stand provisionally rejected on the grounds of non-statutory double patenting over claims 1, 9, 18 and 21 of co-pending Application No. 09/931,291 (now U.S. Patent No. 7,278,159). Applicant respectfully submits the attached terminal disclaimer with respect to the above co-pending Application No. 09/931,291 (now U.S. Patent No. 7,278,159) to obviate any provisional or actual rejection under the judicially created doctrine of non-statutory double patenting.

Claims 1, 16, and 29 stand provisionally rejected on the grounds of non-statutory double patenting over claims 1, 3 and 4 of co-pending Application No. 10/066,252 (now U.S. Patent 7,657,934). Applicant respectfully submits the attached terminal disclaimer with respect to the above co-pending Application No. 10/066,252 (now U.S. Patent 7,657,934) to obviate any provisional or actual rejection under the judicially created doctrine of non-statutory double patenting.

Applicant has amended independent claims 1, 16, and 29 to clarify the language. Applicant has also amended dependent claims 8-15, 17-18, and 20-28 to ensure proper antecedent basis. Claims 30-39 have been amended to clarify the language in light of the amendment to claim 29. No new matter has been added.

Hence, Applicant respectfully submits that independent claims 1, 16, and 29 as presently amended are in condition for allowance. Applicant also submits

that claims 2-15, which depend upon claim 1, claims 17-28, which depend upon claim 16, and claims 30-29, which depend upon claim 29, are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

CONCLUSION

It is submitted that the application is presently in form for allowance.
Such action is respectfully requested.

Respectfully submitted,

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